

QUID  
NOVI



Journal des étudiant-e-s  
en droit de l'université McGill

McGill Law's  
Weekly Student Newspaper

Volume 32, n°13  
1<sup>er</sup> février 2011 | February 1<sup>st</sup> 2011



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## CARTOONIST

Erdal Gok

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Co-Editor-In-Chief

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Charlie: SOMEONE WILL DIE FOR THIS!

Marc: *\*type type type\**

Chanel: I cry watching the days, can't you see I'm foooooool in so many waysssssss.

Charlie: No! We sang that part already!

Chanel: What is this image box?

Charlie: Wanna sing some Whitney?

*\*discussion ensues\**

Both: CHILL OUT, WHAT YOU YELLING FOR? (Yes, it's Avril's 'complicated')

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CHARLIE  
FELDMAN

# DROIT À L'IMAGE

Howdy, everyone! So, I devote my Thursday nights to television and getting my part of the Quid prepared. The Quid's submission deadline is Thursday at 5, so in the evening (after faithfully attending Coffeehouse) I check what's been received and try to plan what needs to be done (i.e. how many pages I will fill); I also start compiling the overheard.

Of course, while working on the Quid I bask in my favorite night of TV – the routine is to watch 30 Rock, Community, Grey's Anatomy, Private Practice, The Office, and Jersey Shore. As of late, 'Police Women of Cincinnati' has been thrown into the mix. (Of course, I don't just Quid for all those hours – there is facebooking to be done!)

Anywho, the reason I'm telling you all this is that my birthday was last Thursday, so my Quid routine was thrown off for this week's edition ... sorry!

But, writing on the heels of my birthday, I want to express my thanks to everyone for all the birthday wishes and all the love I felt on the 27<sup>th</sup>. Oh, and thanks, Facebook, for telling everyone! :-)

In particular, I was really moved by the 'Happy Birthday' serenade in Law and Poverty; I don't think I've had a class sing me 'Happy Birthday' since the 5<sup>th</sup> grade – and at that time we had ice cream cake, so at some point in the semester I'll bring some in :-). Thanks also to everyone who stopped by the party at some point – I truly had a great birthday thanks to y'all!

Okay, so, let's proceed to the fun...

## VALENTINES IN THE QUID!! // CITATIONS D'AMOUR

The Quid publishes on February 15<sup>th</sup> (the day after Valentine's Day) and for the occasion we want to fill our pages with love!

To get involved, send us your valentine(s) :-). Pour ce faire, soit envoyer un courriel à quid.charlie@gmail.com, soit mettre quelque chose dans la boîte de 'Class President III' au bureau de l'AED. DEADLINE: Thursday, February 10<sup>th</sup> at 5pm!

You can profess your undying love for a classmate or simply shout-out a friend. You can propose marriage to your steady or simply let your secret crush know (anonymously) that, well, umm, they have a secret admirer.

Send as many as you'd like. Céline Dion nous propose qu'il suffisait d'aimer – le Quid pense qu'il faut au moins mettre quelque chose par écrit!

Vous voulez participer ? C'est facile !

For the sender and intended recipient(s), indicate student year and initials. If you are unsure of the year, you may use question marks.

Example : From CF (3L) to DH (3L) :  
Last year on this page I wrote « You were my factum partner ... but will you be my life partner? » I'm guessing that since you decided to be on exchange this semester the answer is no... but I still love you anyway!

To remain anonymous (on either or both sides), simply use question marks.

Example: From ?? to Prof. Fox-Decent : You should really take out the 'Decent' from your name because you are a total fox!

For LLM students write LLM, and for exchange students, simply use EXC. If you aren't sure, use question marks.

Example: From ?? to JG (EXC):  
Scotland is not that amazing, but thanks for playing. Love you like you love haggis!

Keep it classy, or at least try to... It's a fine line, so use your judgment and please don't make the Quid Editorial Team agonize over it.

See example above re Prof. Fox-Decent. That one is right on the line.....

Okay, so, here are more fictional examples!

De CF (3L) à CS (3L): Je pense que t'es un immeuble par attache parce que sans toi je serais incomplète.

From CF (3L) to MJT (2L): You are the Nahum to my Gelber.

From ?? (3L) to ?? (1L): I think of you as being the Charter circa 1982 ... in that I want to repatriate you ... you know, bring you home...

From ?? to TB (4L): You are my fire, the one desire... believe when I say, I want it that way. – Your secret admirer.

De CF (3L) à VL (3L) : Hugo dit que "L'amour fait songer, vivre et croire." Evidement, tu es mon amour.



From CF (3L) to CS, CR (3Ls): The Quid is our baby – when we work on it together I get emotional sometimes and think of art. 538 CCQ. Hint hint, nudge nudge.

From ?? (1L) to ?? (1L): I want to moot in your court!

From CF (3L) to KKP (2L): I want to dedicate a love song to you ... because you're so Rojo Caliente :-P

From ?? (1L) to ?? (1L) : Being in the same room (100 CDH) as you gives me a high that can only be described as 'legal meth'.

De CF (3L) à l'AED : Je t'aimais, je t'aime et je t'aimerai !

From CF (3L) to The Cafeteria Lady: It's often said that the way to a man's heart is through his stomach. Apparently you're desirous of a prolonged courtship...

So, get writing! [Quid.charlie@gmail.com](mailto:Quid.charlie@gmail.com) avant 17h, le 10 fév!

## BAL DES FINISSANTS

Attrapez vos calendriers maintenant - le bal des finissants sera le 31 mars 2011. Wait, what?! Yes, that's right – THURSDAY, March 31<sup>st</sup> is Graduation Ball. While all the details will be forthcoming, block off that evening now. The date was picked to avoid conflict with bar and bar school dates of which we were aware, as well as to avoid overlap with Friday night or weekend religious services. I do hope the fact that March 31<sup>st</sup> is Freedom Day in Malta does not reduce attendance significantly...

## ACTORS WANTED

Skit Nite (March 15<sup>th</sup>) needs actors! If you would like to be someone cast in a skit (you have options but not everything has been written yet) please let us know. In particular, I (Charlie) need some students (1Ls preferred) who are willing to be in a video that would be filmed at the Faculty on the afternoon of Saturday, February 12<sup>th</sup>. I would write more here but I don't want to spoil the plot and surprise – let me know of your interest and I'll get back to you.

Of course, if you have ideas for skits, please also let the Committee know.

Les billets pour Skit Nite 2011 seront en vente dès le 1er mars pour \$15 (\$20 à la porte). Les profits de Skit Nite iront à quatre organisations caritatives: Chez Doris, Dans la Rue, Share the Warmth, et Mission Old Brewery.

Skit Nite 2011 is presented by our official partner, Blakes.

## WHAT DOES THE FACULTY NEED?!

Each year, the Graduating Class gives the Faculty a gift. We're still collecting ideas, and perhaps you have one. Do you ever walk in the Faculty and think, "What this place really needs is a/an/some/more \_\_\_\_\_"? Help the Graduation Committee fill in the blank.

Recall that the graduating class collects money gift, so, while we can perhaps want new lockers or a faster elevator, we're not looking to pay hundreds of dollars each! (Send ideas to [timothy.bot-tomer@mail.mcgill.ca](mailto:timothy.bot-tomer@mail.mcgill.ca)).

## A NOTE RE THE LSA

I've been putting off an article the past few weeks that I really don't have time to write now, but, given Stefan's birthday this past Saturday – here's my Quid present: A positive word about the LSA :-P I'm really enjoying this year's LSA Council and think the LSA Exec is doing some great work!

So, then, why the article? Well, besides getting the word out that this is a great LSA year, I wanted to write about LSA Council. We've had three meetings now where there hasn't really been much on the agenda. Contrast that with my first two years on Council when it was a challenge to fit everything in. Perhaps it's because the Exec has been on point this year that there is less to do, but I think it has to do with an ideological shift in how we (as students) want the LSA Exec/Council to act.

To make what would have been a long ar-

ticle short: I think we've moved from the Exec/Council taking positions to a model where Council creates committees that consult and make recommendations. Besides taking longer from start to finish, this requires students to get involved, and student participation in this Faculty isn't great when it comes to LSA things. Further, given that Exec members are often acclaimed and therefore don't need to campaign respective to their portfolios, we're creating a system that discourages position-taking; this is compounded by the lack of incentives for students to serve and seek re-election, leading to difficulties filling vacancies as well as encouraging fairly high turn-over annually. Lastly, students are not always informed about what the LSA does (or can do) and I think as a result students do not always engage the association effectively. The end of the article would have been a repeated plea for student engagement, noting that, while many people came and thanked me for my article on course seat numbers and the follow-up piece with ideas – nobody has really written a response to either or suggested what we might do (sauf Vincent, qui a écrit au même moment que moi après le Dean's Town Hall). And that would have been it. Anyhwo, toss it around in your mind – what do you want from your LSA?

## ...DISONS... (Overheard @ the fac)

As always: [quid.charlie@gmail.com](mailto:quid.charlie@gmail.com) SVP send what you hear!

Prof. Dedek: The key to law school is just to lower expectations. (This quote sets the record for most submissions of a single quote ... DISONS ... history).

Prof. Moyse: Hier je me suis fait attaquer par Charlie. Il me soupçonne d'avoir kidnapper les espions.... Je suis moi-même déçu de ne plus voir mes citations dans le Quid. [...] Je suis un peu déçu que ma citation sur Parmentier n'ait pas été choisie... Je ne sais pas pourquoi, le comité de sélection n'a pas choisi celle-là. (I would like to thank my various spies in DDB – please keep the quotes coming :-P)



Prof. Fox-Decent: So, that's it for today's class; I realize I've said a lot without actually saying much.

Prof. Fox-Decent: I'd be remiss in my duties if I didn't send you out in the world with the toolkit that the courts expect you to use!

Prof. [Redacted]: Restitution will be the subject of your Advanced Obligations class — if they don't abolish that class ...

Prof. [Redacted]: (*énumérant les droits de l'homme...*): Droit au repos et aux loisirs... Droit qui est constamment violé à la Faculté de droit.

Me. Lamed: I feel like I am on a cooking show.

Prof. Moyse: Parfois les copropriétaires peuvent être plus difficiles que les voisins, comme Hilarion dans Achille Talon. Vous n'avez toujours pas lu Achille Talon?! Franchement! Et vous pensez réussir en

droit?

Prof. [Redacted]: Your career is more important than telling the truth.

Prof. [Redacted, teaching in the Moot Court on a particularly warm day inside...]: It's so hot in here - what can I take off and still be decent??

Prof. [Redacted]: I got caught in two speed-traps the other day while I was driving to soccer, which is my real full time job.

Prof. Fox-Decent: Changing the law is like moving a cemetery; it's not a pretty process.

2L: FACTUUUUM ÇA RIME AVEC REC...

[During a class discussion on defining ethnicity]:

?L: I've had so many ethnicities inside me!

2L: Is it a problem that I keep mixing up

Fasken and Heenan Martineau?

3L: I just spilled my drink on you — it looks like I peed on you.

Other 3L: Thanks for R. Kelly-ing me!

1L: Friday afternoons are the best time to skip legal meth.

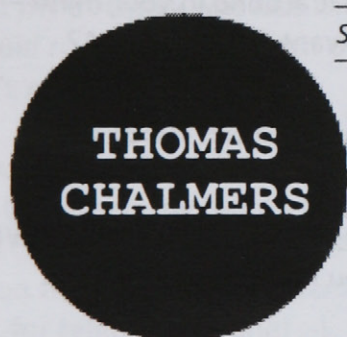
Other 1L: But it's so awkward when only 5 of us are there!

1L: Well then, don't be one of the 5 who shows up and you'll avoid the awkwardness!

3L: Yo, didn't I see the cafeteria ladies on Jerry Springer? If not, they need to be. Either that or Dr. Phil - someone NEEDS to stage an intervention!!!

#### A NOTE ON PHOTOS

I realize I haven't had many photos in the Quid this year - then I realized I'm not here during Universal Break... clearly, the Quid needs a new photographer - if you would like the job for next year, please let me know!



SAO

## ACTUS REUS APPRECIATION

To: Actus Reus

Again this year you have done yourself and the Faculty proud. *Seven Stories* was not only thought provoking and funny but well performed. Each year I am surprised at your commitment, dedication and skill; it is not easy, I'm sure, to learn your lines, build the sets and perform the piece. Actus Reus, I am glad you are part of the Faculty. Thank you, thank you, thank you.



JOANNIE  
JACOB

# CONFÉRENCES DE RÈGLEMENT À L'AMIABLE À LA COUR DU QUÉBEC

*Directrice des services à la Communauté, Clinique d'information juridique à McGill*

Depuis septembre 2010, la Clinique d'information juridique à McGill a commencé une nouvelle initiative avec la Cour du Québec qui a été un franc succès jusqu'à maintenant.

L'idée est venue du fait qu'il y a un intérêt grandissant du public et des étudiants envers les moyens de résolution de conflits hors-cours et que nous recevons parfois des questions à ce sujet à la clinique. J'ai donc décidé d'organiser des opportunités pour que nos bénévoles puissent assister à ce genre de séances et comprennent leur fonctionnement afin de mieux pouvoir répondre aux questions du public.

Dès les premières séances de ce nouveau programme, la réponse a été très positive et le bouche-à-oreille faisant son effet, plusieurs étudiants de la faculté non bénévoles à la clinique ont commencé à m'approcher pour participer. Bien que la Clinique soit indépendante de l'Université McGill, j'ai accepté de laisser la chance aux autres étudiants de participer, tout en donnant priorité à nos bénévoles. Puisqu'il s'agit de la seule initiative de la sorte, il n'y a aucun autre moyen pour les étudiants de McGill d'acquérir cette expérience en ce moment et je crois qu'il est important de partager cette opportunité. De plus, cela donne plus de visibilité pour la Clinique parmi la population étudiante et répond à nos objectifs d'éducation de la population en générale en matière légale.

Un peu plus sur ces conférences... La Cour du Québec offre aux personnes et aux entreprises qui s'opposent dans une cause civile la possibilité de recourir au service de conférence de règlement à l'amiable. Ces conférences, présidées par un juge, permettent aux parties d'essayer de résoudre leur litige avant l'audition de la cause, leur permettant ainsi d'épargner temps et argent. Ces conférences sont généralement à huis-clos. Cependant j'ai pu m'entendre avec la Cour pour qu'un à deux étudiants puissent assister à certaines de ces conférences – avec l'accord préalable des parties et sous condition de signer une entente de confidentialité.

Jusqu'à cette date 23 opportunités de ce genre ont déjà eu lieu et plusieurs autres sont planifiées. Afin de m'assurer que ce nouveau programme soit bénéfique, je fais remplir aux participants un formulaire de commentaires après leur expérience. J'ai compilé certaines réponses et vous trouverez certains commentaires ci dessous.

Entre temps, si vous êtes intéressés par la Clinique, je vous invite

à visiter notre site web (<http://mlic.mcgill.ca/>) ou à passer en personne à nos bureaux situés au premier étage du centre étudiant Shatner.

De plus, si vous êtes un étudiant de deuxième année ou plus, je vous encourage à devenir bénévole. Si cela vous intéresse, écrivez au [hr.mlic@mail.mcgill.ca](mailto:hr.mlic@mail.mcgill.ca)

## Commentaires:

It was an amazingly educational experience! I was riveted the whole time because the mediators were so much less concerned with the law and so much more concerned with working past the tension and emotion between the parties and communicating with each other. It was really fantastic to see how "justice" really wasn't the only concern governing the parties' decisions, but how the practical side of things really bears upon the outcome of a dispute – things like lawyers' fees, court costs, delays, and basically all of the hindrances of our justice system, which we all know are important factors but rarely see their importance firsthand. It was really interesting to see how people work around that system in real life. And the judge was an extremely skilled mediator as well – as someone who is really interested in mediation, I felt like I learned a huge amount just watching her work. – Megan Lee

Law in action is a completely different experience and I am glad I had the chance to see it, particularly in the context of a session of "règlement à l'amiable"; the law is not absent from the session (which is led by a judge) and the parties refer to it all the time, but there may be ways for them to agree or settle without going to court. It was very interesting to see the judge intervene (as an arbitrator) to try to get a sense of what was the possible common ground for the two parties. I think I learned as much on this mode of dispute resolution (particularly from the judge's comments on his general experience conducting these sessions and on their very high rate of success) and about the practical dealings in real legal matters. I am glad I attended this activity. – Maxime Lemoyne

I truly learned a lot. It was actually one of the most surprising experiences I've had in a long time. The emotional dynamics were very present, and we noticed how the judge dealt with these tensions – she was very comfortable. We also saw the negotiation process step by step, learning the various strategies used by



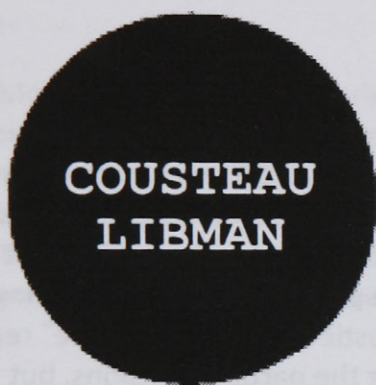
counsel and by the judge to facilitate the emergence of an agreement. Globally, I learned that such a method is a quick, efficient way of resolving an issue. The longer the trial is scheduled for, the more interesting. Each day in court costs around \$3,000, and the delays are extremely long, leaving room for stress before and during trial. Economically, mediation is a win-win situation: it's quicker and cheaper for both parties and for society. — Clément Camion

Pendant nos cours en droit, on ne voit que les cas qui se rendent en cour. On n'a pas la chance de comprendre les motivations des parties, les stratégies qu'elles utilisent, les sentiments qui sont impliqués. Je pense que c'est important, parce qu'on va passer la

majeure partie de notre temps à l'extérieur de la cour, à travailler avec des clients plutôt qu'avec des juges! — Myriam Larose

It is one thing to read about mediation, negotiation, conciliation and another thing to see it happen. I learnt a lot from seeing the different approaches and techniques the judge used to move the parties towards their end goal of a settlement, without getting bogged down in past stories and emotions—even if the settlement was not reached. I wish I had the opportunity to do this before my last year in law.— Sandhya Chari

*Un Merci spécial à toute l'équipe de la Cour du Québec, en particulier aux juges qui ont participé et à Madame Johanne Fillion.*



*Law I*

## LIFE IN JANUARY

I was on a ship, sailing deep into the black heart of the arctic. Everything was white ice; everything was rigid and fragile and constantly shattering. I left a wet shirt outside by mistake; it shattered. The captain got drunk and wandered outside and fell asleep on the deck. We found the remnants of his broken body the next day. The amazing thing about the scattered pieces of the captain's corpse was their frozen integrity. For shits and giggles, like taxidermists, we glued the parts of his body back together and fastened him to the bow of the ship. But it wasn't just for laughs. His presence was soothing, and calming. We were on our own without him. Only he knew the way.

The ship was large — the crew, small. There were only five of us, and we all spoke different languages. "This is like the Tower of Babel," I remarked on a daily basis at our nightly communal dinners. I said it because I thought it was witty — it provoked a lot of nonsensical babble — but realized each night after I made the remark that it was totally empty: it had no significance because I was the only one who could perceive its significance. I couldn't communicate my thoughts or ideas to anyone. I was more alone than I had ever been in my entire life.

I spent my days walking up and down the ship's long hallways playing with my Rubik's Cube. I didn't have a

job on board. The others took care of everything. They seemed to know what they were doing. I don't know how they made sense of the ship. It had so many levers and cords and dials and moving parts. It was like an elaborate watch, with a million internal tiny moving parts. It made no sense to me.

In fact the whole journey made no sense to me. I didn't know where we were going or why we were going. And I didn't ask, either. I didn't even know why I was on the ship. I just woke up on it one day, and took my life on it as a given. Everything in life struck me as so arbitrary that nothing ever seemed that strange or out of the ordinary. I just knew that I had no choice but to remain on it. If I left, I would die quickly in the bitter cold. And since I knew that death was inevitable, I didn't see any sense in racing towards it. After all, what's the point of racing towards a point that you are bound to reach?

So I just paced the halls, and told jokes every once in a while that fell on deaf ears, and learned to live without a purpose, or the warmth of real company, as I made my way through a frozen world with a group of people who spoke strange languages that I didn't understand.



# Cleared for take off

Ogilvy Renault joins legal giant Norton Rose LLP



***You've all Heard, Talked, and Read about it ...***

***In 2011 Ogilvy Renault will become the first Canadian law firm to go global through a major international merger.***

***What does this mean?***

***Hear it from the source.*** Managing Partner Me Jean Bertrand and Me Nicolas Labrecque, Chair of the Students Committee will discuss the merger and its implication for YOU and the Canadian legal landscape

***Come see for yourself ...***

**Tuesday February 1, 2011 at 6:00 PM**

**Moot Court Room (Room 101)**

**3644 Peel Street**


**NORTON ROSE**

**OGILVY  
RENAULT**



**ASIA PACIFIC**  
LAW ASSOCIATION OF MCGILL





SAO

# UNDERGRADUATE SCHOLARSHIPS AND PRIZES

## Application Form for Undergraduate Scholarships and Prizes Now Available

**Submission deadline: April 29, 2011 @ 3pm in the SAO**

Each year the Faculty awards a number of prizes and scholarships for continuing and graduating B.C.L., LL.B. students. Students are encouraged to nominate themselves or a fellow student(s). Instructors will also be encouraged to submit nomination forms for students.

Please fill out the Discretionary prizes application form - 2011 <http://www.mcgill.ca/law-studies/forms/#PRIZES> to apply for a discretionary prize or scholarship. <http://www.mcgill.ca/law-studies/information/discretionary/>

N.B. If you are applying for a discretionary prize or scholarship based in part on financial need, you will need to register with the Student Aid Office via Minerva first. Students need to apply for the In-Course Financial Aid found under the Financial Aid menu on Minerva AND email to Student Aid [student.aid@mcgill.ca](mailto:student.aid@mcgill.ca)


with the Subject indicating your name and the name of the award you are applying for.

Graduating B.C.L., LL.B. students may submit a self reporting questionnaire for the Johnston Medal for outstanding contribution. The questionnaire is available at <http://www.mcgill.ca/law-studies/forms/#PRIZES>.

The Faculty of Law awards postgraduate scholarships or fellowships to one or more members of the graduating class, or of a recent class, with a distinguished academic record in the Faculty, to enable such student or students to pursue graduate studies in law. An application form is available at <http://www.mcgill.ca/law-studies/forms/#PRIZES>.

Full description and value of prizes and scholarships are found at <http://www.mcgill.ca/law-studies/information/prizes/>.

Questions regarding prizes and scholarships may be sent to [info.law@mcgill.ca](mailto:info.law@mcgill.ca).



LAW  
LIBRARY

# LIBRARY NEWS

In this column, we would be delighted to answer all your library-services-related questions. Please send your questions to Svetlana Kochkina [svetlana.kochkina@mcgill.ca](mailto:svetlana.kochkina@mcgill.ca), Liaison Librarian Nahum Gelber Law Library.

## **We have bought a lot of new books!!!**

Law Library is actively buying new books. Please do not forget to take a look at our newest acquisitions. You can find new books on the trucks near the Current Periodical Area on the ground floor.

## **Students have unlimited number of renewals for books**

This is to remind you that starting last September, all McGill students can have on loan up to 80 books in the same time. Students may renew books an unlimited number of times until graduation, unless the book is recalled.

## **Law databases Username and Password reminder**

Starting from last September, McGill Law School students do not need individual usernames and passwords to log in Westlaw and QuickLaw.

To access QuickLaw, click on "Register Later" button

To log in Westlaw, DCL, RJB, Taxnet.pro, or Kluwer Arbitration you have to know your McGill student ID barcode number and your Library PIN.

Your barcode number is the 10 or 11 digit number above the barcode on your McGill card. Your default PIN is your birthdate, i.e., yyyyymmdd (for example: 19801125 for the 25th of November 1980).

The ONLY database, for which you need individual username and password, is AZIMUT. If you forget your AZIMUT username and password, please contact Ramon Lasso, [ramon.lasso@mcgill.ca](mailto:ramon.lasso@mcgill.ca).



ADRIAN  
THOROGOOD

# LOOKING FOR A SUMMER JOB?

*For every law student looking for a summer job. Here's how to write a cheesy cover letter.*

Charelli's  
Delicatessen & Cheese Shop Inc.  
2863 Foul Bay Road  
Victoria, British Columbia, V8R 5G5  
250-598-4794  
info@charellis.com

Mickey LeSouris  
38 Mouseketeer Blvd.  
Apartment #1,  
small hole behind the fridge.  
V1C 2H3

To whom it may concern,

You say you are looking for a special individual. I think I fit the bill. My resting heart rate is around 180 bpm. I have a sleek, grey coating of fur that allows me to appear at once erudite and compassionate.

Small and fast paced environment? That pretty much describes my evolutionary niche! Weaving away from the brooms of frantic housewives and predatory felines. And when it comes to the gastronomical mysteries of that tender yellow goddess that you sell in your store, I am both knowledgeable and passionate. In my sleep I have been known to cry tearfully: 'le fromage! mon amour!' I have eaten rancid bits of Kraft Singles™ off of the bottom of smelly work boots. I have also let world famous Brie's melt in my mouth, nibbled with the earnestness of a crack addict on a fresh slice of Gorgonzola, and let a heavenly morsel of Bleu age in my mouth for 6 weeks.

She is my religion. My first love. My raison d'être. Why do I fit? Because I weigh 230 grams. Why should you hire me? Because I have 230 grams of heart.

Seriously. I fucking love cheese.

Yours tastefully,

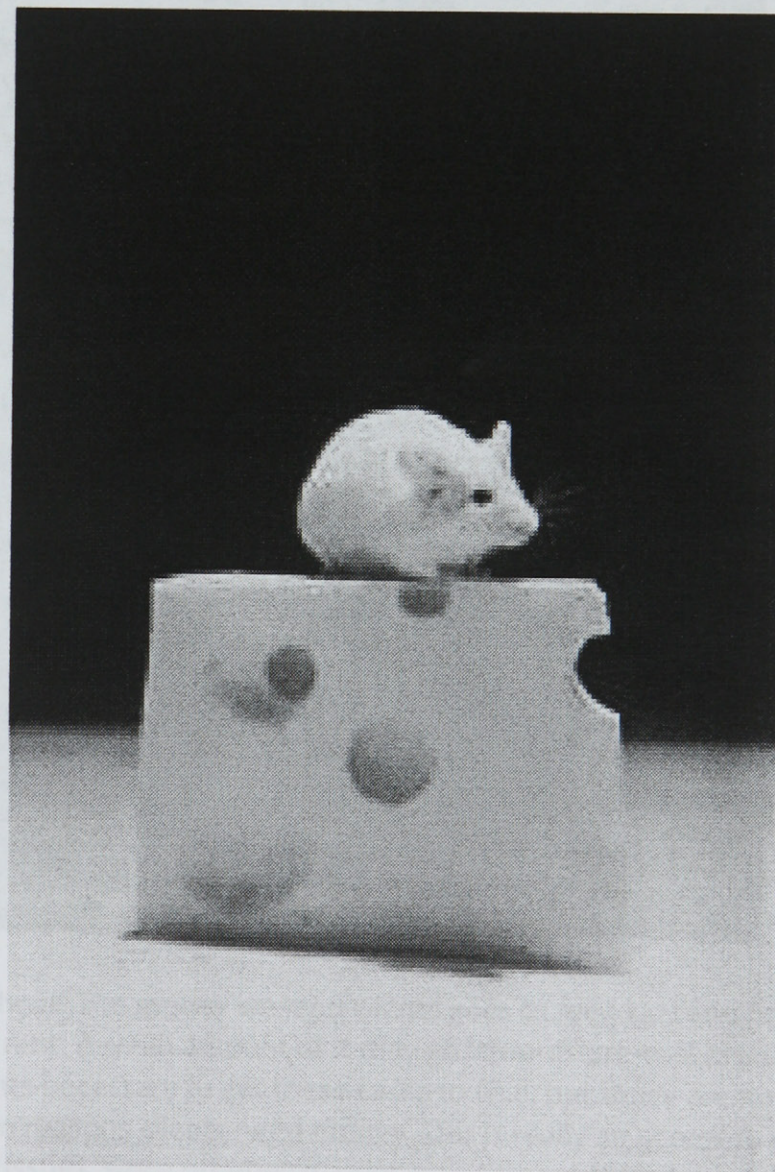
Mickey

**Response from: info@charellis.com**

Good Morning Mickey!

Thank you very much for submitting your application for a position with Charelli's. Unfortunately at this time we can not accept another application for applicants of your type due to possible inspection risks. We would however like to keep it on file for our new location which will require at least one friend like you.

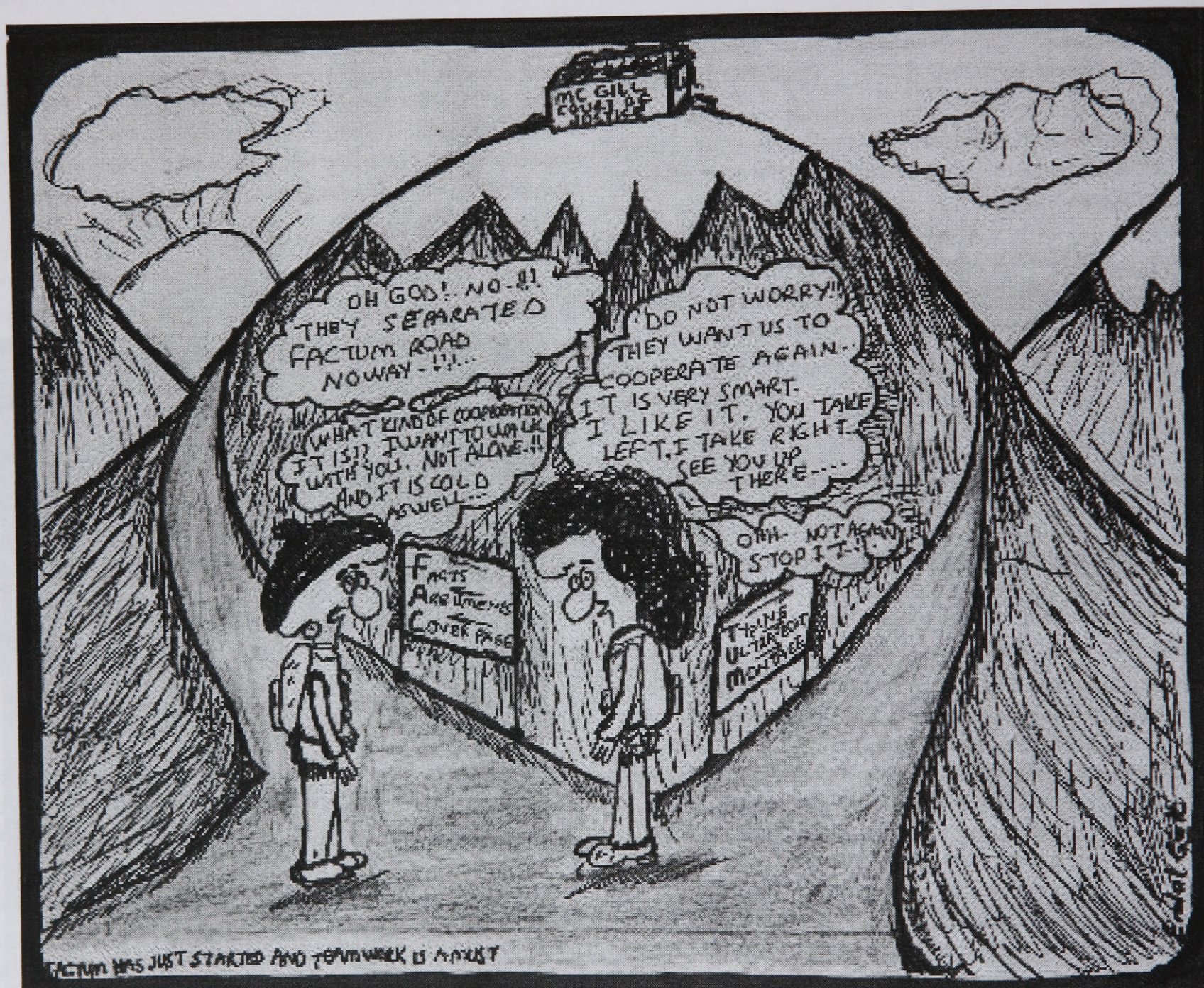
Have a great day!





ERDAL  
GOK

# CARTOON





**MICHAEL  
SHORTT &  
SAMI  
YASIN**

# PLAINTIFF LOAN FINANCING: ACCESS TO JUSTICE OR JUSTICE AT A PRICE?

## AN MJLH INTERVIEW WITH SEAHOLD INVESTMENTS

Almost one year ago, in *Bourgoin v Ouellette* [(2009), 343 NBR (2d) 58, 177 ACWS (3d) 318], a New Brunswick judge awarded a very interesting kind of legal cost - interest on a loan the plaintiff had taken out to finance his lawsuit. This was the first time in Canada that interest has been awarded as a cost. Effectively, this shifts some of the burden of paying for these loans from the plaintiff (who would normally see the interest deducted from the settlement) to the defendant (who is now responsible for these as part of the plaintiff's costs).<

The MJLH sat down with Hubert Seamans, the president of Seahold Investments, to explore the burgeoning field of plaintiff financing loans in Canada. For the full interview (another half-dozen questions) visit the MJLH website at: <http://mjlh.mcgill.ca/>

**MJLH:** How did you come to be in the plaintiff financing business?

**Seahold:** I've been an entrepreneur since I was 24 and I was involved in many small businesses early in my life. Starting in 1983 I went in to politics, and was Minister of Municipal affairs in the McKenna government in New Brunswick. After leaving politics, I realized there wasn't a lot of job demand for ex-cabinet ministers [laughs]. So I went in to business brokering, helping people buy and sell businesses. In the course of my brokering I ran across a guy who was involved in plaintiff loan financing. But he was charging a very high interest rate, in fact just below the legal maximum of 60% annually. I knew a fair number of personal injury lawyers and so I talked to them about this guy, and they felt that he was charging exorbitant interest rates. They encouraged me to go in to the plaintiff loan business and put it on a more equitable footing for their clients. So I started lending money to their clients at about half the previous rate, they told other lawyers about my business and 11 years later, we're doing it coast to coast.

**MJLH:** How do you decide which cases your firm will take?

**Seahold:** Well, first off, we only lend to cases that are proceeding on a contingency fee basis. We do this because it is a vote of confidence by the lawyer in the merits of the case, and also because contingency fee cases mean that the client's financial needs are manageable, and thus something we can help them with. Our goal in lending is to help clients resist the financial pressure to settle quickly and for less money than they deserve.

**MJLH:** How do plaintiffs find out about your services?

**Seahold:** We never market to plaintiffs. Instead we approach law firms and inform them of our services. Then, at the firm's discretion, they can notify their clients about our loans if things get tough for their clients financially.

**MJLH:** What is the process for plaintiffs to get a loan?

**Seahold:** We try to remove as much work from the law firm as possible by conducting most of the assessment ourselves and limiting the amount of their time we take up. The client fills out a form and answers 15-20 questions, mostly geared towards the nature of the accident and the size of their financial needs. We then call the law firm back, confirm the details of the client's story and make a decision.

**MJLH:** When you say "accident" does this mean your firm deals mostly with motor vehicle cases?

**Seahold:** Absolutely. That would be our typical case. We also do some slip-and-fall accidents and some medical malpractice, but of the 500-1000 cases a year we take, 95% of them are road accidents.

**MJLH:** How do you determine the size of loans you make to plaintiffs?

**Seahold:** We try to minimize the size of the loan in order to keep clients' interest payments low, since a \$10,000 loan at our interest rates doubles every two and a half years, and the average case length is also about two and a half years. We also try to keep our loan to a maximum of 20% of the size of the final settlement, including both principal and interest.

**MJLH:** You mentioned that you only take cases that are on a contingency fee basis; if so, then what do plaintiffs spend the money on?

**Seahold:** The money we lend clients goes to feed kids and pay the rent. A small amount of it may go towards pre-trial disbursements necessary to get these cases to trial, but those are not the main reasons clients need money. This is really an access to justice issues, since otherwise, poor plaintiffs are forced to settle because they've been injured, can't work and run out of money for the essentials of life. That's where we come in.



MJLH: What are your mechanisms for determining interest rates?

Seahold: We have a flat interest rate for all files. We set that rate when I opened the business eleven years ago and have stuck to it ever since. It's the same as Sears Canada: 2.4% per month, compounded monthly, which works out to 32.97% per year. Some of our competitors charge different rates on different files, but that's not our business model.

MJLH: In *Burguoin* the judge considered whether your interest rate was a reasonable one, and determined that it was. On the other hand, what do you say to those who argue that a 32.97% annual rate is simply too high?

Seahold: Our interest rate is a reflection of the cost of doing business, and I wish it was a lot lower. One problem is the inherent risks of this industry, and we lose about 25% of revenue every year due to bad debts. Another fact is that we raise funds primarily from private investors. This is obviously a business that requires a large cash flow to finance, but so far the banks are unwilling to make large loans to companies like ours. We do have a bank line of credit, but probably 80% of our financing comes from private investors. And private financing is far more expensive than bank financing. When I started we were paying 18% to private investors. We recently moved to 12% and then down to 10%, but that's still far higher than the interest rates most businesses pay to raise funds. Our interest rates reflect these two facts.

MJLH: What role does Seahold Investment play in the evolution of the case? Either in trial tactics, settlement offers or otherwise?

Seahold: Absolutely none. We do not get involved in the case at all. The only time we do is if they're in a settlement conference and there may not be enough funds to cover the loan. In this case the lawyers will call us and negotiate what can be achieved as far as a payout goes.

MJLH: What kind of action is taken in that case?

Seahold: We recently have started a non-recourse system, so that if it turns out there aren't going to be enough funds to cover the loan, the client is not going to be responsible for covering it once we agree on a specific amount.

MJLH: So essentially they pay what they can at that point and everything else is written off?

Seahold: Yes. Not a preferred option for anybody, but that's the way the real world works. This is a high-risk lending sector. There's a number of reasons why we might tend to lose money on an account, but we don't tend to lose too many accounts in a given year. Maybe a dozen or so. Less than 20, generally, per year. But they tend to be large amounts. Like \$100,000 or \$50,000, from accounts that are very old, typically if clients have

been seriously injured and needed a long time to recover. Time is our enemy in the lending business.

MJLH: What collateral is put up by the plaintiffs in your cases?

Seahold: There isn't any. We take clients who do not have enough assets to be eligible for regular bank loans. We are lenders of last resort for people who cannot access the regular banking system. We deal a lot with young people, single parents... people who do not have outside sources of support.

MJLH: What happens when the legal costs and the cost of the loan are so large that they consume almost all of the settlement - say \$50,000 out of a \$52,000 settlement?

Seahold: This is about the only time we are ever involved in the settlement negotiations in any capacity. If a lawyer calls me to say "We received a \$100,000 settlement negotiation, but the client owes me \$40,000 and they owe you \$40,000, so the client would only get \$20,000. They aren't willing to settle for \$20,000, but I think this is the best offer we're going to get." At that point we negotiate with the lawyer to see whether they will reduce their fees, and we reduce our loan, and try to find enough financial room for the client to be happy with the best offer.

MJLH: Speaking of access to justice, what do you say to critics who point out that access to justice in this case runs in only one direction - you can make money from a plaintiff, but not from a defendant. What do you think about that?

Seahold: We only deal with plaintiffs in these cases. The defendants our clients face are typically multi-million dollar corporations like insurance companies or hospitals. They've got lots of money for legal fees, their own teams of lawyers. This is a David and Goliath situation, it's as simple as that. We're helping David get a shot at winning here. If we had equal access to justice in this country, I wouldn't have a business and I'd be happy about that. But we don't. Under the current system, offers typically get bigger the closer you get to trial, and since rich people can last longer on their assets, they can hold out for larger settlements than poor people. This helps the average Canadian get a larger settlement.

MJLH: What do you think of the argument that loans like these encourage people to bring frivolous lawsuits before the courts and flood our already over-burdened system?

Seahold: I don't see that as an issue here, as compared to the United States, since the provincial governments are regulating that problem directly. Furthermore, we don't want frivolous claims to go forward any more than the courts would, since those cases would get thrown out and we'd lose our money. I'd also point out that we come in to the picture after the case is already underway, so I don't think we have any influence in the decision to start the case at all. We're there to help people who are already in the legal system but having trouble staying afloat



financially. As I said before, we're not out there drumming up business in the community.

MJLH: How does Seahold decide which firms and individual lawyers to form partnerships with?

Seahold: Our relationship with the lawyer is critical, since we're depending heavily upon the lawyer's judgement about the case's likelihood of success. We're looking to deal with pre-eminent firms, people with a good track record. We're looking to deal with lawyers whose primary area of practice is personal injury. If they're only doing it a small percentage of their practice, we're not as interested.

MJLH: Do lawyers get any incentives for referring clients?

Seahold: No, absolutely not.

MJLH: Some have argued that this kind of lending introduces a conflict of interest in to the lawyer-client relationship. What do you say to that?

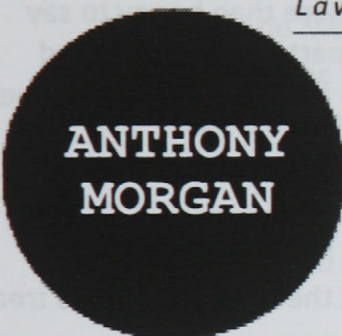
Seahold: Actually, the history of these loans is that many lawyers were lending money to their clients, which is a clear conflict of interest [and banned under professional codes of conduct in all provinces - MJLH]. When we started 11 years ago, several of the law societies across the country had taken a stand on this issue, and were campaigning to end lending by lawyers to their clients. So law firms that had been doing this started looking for other ways to help their clients make ends meet, and we arrived at the right time to provide this service. There was a conflict, but it was because lawyers were lending. We helped remove that conflict from the equation.

MJLH: ... because you aren't involved in the conduct of the trial itself?

Seahold: Exactly.

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Law III



**ANTHONY  
MORGAN**

## CONFESSION: WHY ANTHONY MORGAN (LAW III) SITS AT THE BACK OF ALL HIS CLASSES

I am sure that, by now, many of you who have been in a class with me have come to notice that I almost always take one of the corner seats of the back row of the class. Some, I am sure, wonder why that is, while a few have remarked and even asked about it. Despite the odd question or comment that I have received, though, never before have I fessed up and honestly said why it is that, every chance I can, I take the corner seat of the back row of every class.

As a pre-emptory note, no, it has nothing to do with being anti-social, compulsive, a jaded law school student, a chronic in-class web-surfer, feeling alienated, or trying to be "cool". Though I may be/feel all of these things to slight and varying degrees (except cool, I am all of that one, ;-)), they do almost nothing to explain my backseat nesting.

Now, this will strike you as counter-intuitive at first, but I sit at the very back of my classes because I have very poor vision. I have what is called keratoconus. This is a degenerative disorder of the eye in which, as Wikipedia effectively sums up, "structural changes within the cornea cause it to thin and change to a more conical

shape than its normal gradual curve". I was diagnosed with this in first month of law school (Sept 2008) and it has gotten much worse since. As such, my vision is badly distorted (I mostly see in fuzzy forms and at times with slight double vision).

So how does this explain my being constantly perched at the back of the class? Well, I cannot read anything on my laptop screen unless it is massively projected (by normal standards of vision). Even then it is still a struggle. To give you a bit of an idea, I only begin to clearly see words and can read lines on the screen at font size 18, with the screen zoomed at 160%. Maybe this is silly, but it is embarrassing to me to have my classmates see how large the images on my screen are and up until now, I have found it similarly embarrassing to explain why the images are so big.

So why not hand-write my notes? Unless I am hunched with my face literally twenty centimeters over my paper, I cannot see what I am writing so lines often cross-over onto each other.

So why the back CORNER? Because I do see what is



going on around me very well (while at the same time others think that I can) the back corner provides protection in the form of significantly limiting the potential for awkward/embarrassing interactions resulting from me totally missing someone making a non-verbal gesture to communicate with me, such as smiling, trying to make eye-contact or waving. More importantly (for my pride), the back corner majorly decreases the odds of me smiling, waving or beginning to engage with a person who I thought was gesturing or speaking to me, but who was really seeking to communicate with another person who is behind, beside or even in front of me. In other words, another reason I sit in the back corner is because I have the fewest chances of experiencing these unpleasant moments by sitting there due to the fact that compared to everywhere else in the room, it is in the back corner that my odds of being seen are least.

I do not want to belabor the point, but I would like to continue, only to explain how this eye condition has come to affect my interactions with most of you outside of the classroom.

Because of my keratoconus, even with my glasses on, all of your faces only come into focus once you are about a meter away from me and your bodies remain extremely fuzzy (as in I can barely tell your gender, what you're wearing or the color thereof) until we are within about a meter and a half of each other.

This explains why there may have been a time or two (or three...) when you have either: smiled at me while we were walking by each other in the Atrium; said hi or waved to/at me when in the halls; or seen me walking hurriedly (with tunnel vision) from one place in the Faculty to another, and have received the following from me: A blank stare; a look of confusion and slight unfamiliarity (as if we have never met and I do not know who I am speaking with); an uneasy smile; an expression that makes it seem as if I am looking right through you; or simply no acknowledgment at all.

Having said all of this, I want to be clear in stressing that this is not at all a boohoo plea for sympathy. I write this because I am

starting to realize more and more that since starting at the Fac, I may have come off at times as being closed off, anti-social, disinterested in you, stand-offish and maybe even cold or mean. If I have given any of you these impressions at one time or another, I would like to apologize and re-assure you that it is not because of you but because my general disposition has been to avoid social interactions because of how easily and often my interactions with others have ended up being embarrassing and awkward due to my poor vision.

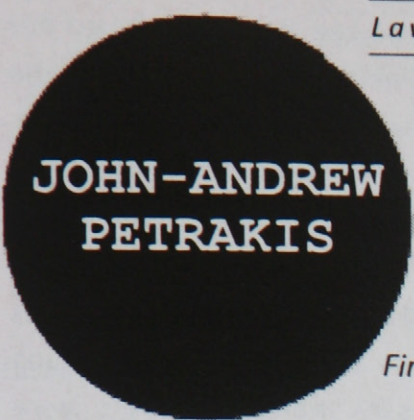
In closing, I have never met a person at the Faculty that I did not like and did not want to learn or hear more from. However, I have let this eye condition prevent me from engaging with you as often and as freely as I would have liked. I want to change this (to the extent that it can be changed) starting now. As such, whenever you see me and would like to say hi, what's up or just chat, please call me by name and I will be more than happy to say hello or chat. I will also do my part to try to look and seem more inviting even when I cannot see you too well.

Thanks,  
Anthony

PS Yes, keratoconus (at least at the level I have it) is treatable.

However, because of the degree to which mine has progressed, the cost of treatment has been higher than I have been able to afford until very recently. In a couple of weeks, I am happy to note, I should (no guarantees) have new hard contact lenses that will significantly enhance my vision.





**JOHN-ANDREW  
PETRAKIS**

## FROM TRANSSYSTEMIA TO TRANSCULTURALISM: A SUMMER TO REMEMBER IN CHINA

*First Year Executive of the Asia-Pacific Law Association of McGill*

Maybe it was an urge to study outside the all too familiar confines of the McGill classroom. Or was it curiosity to discover how the law operates in a radically different culture? Perhaps it was the old-fashioned appeal of adventure in faraway lands. Whatever their individual motivations might have been, ten McGill law students embarked on an unforgettable summer program in China last May. For two weeks, they attended classes on Chinese law, mingled with local students, and visited courts as well as mediation tribunals. "It was amazing to be part of this process of experiential learning," says McGill student Tanya de Mello, one of the participants interviewed by the Asia-Pacific Law Association of McGill. "The best aspect was interacting with the Chinese students. The program also did a good job of dispelling some of the preconceptions we Canadians hold about China, especially regarding politics and gender roles."

The summer of 2010 was in fact the first instalment of the Shantou-McGill Summer Law Program. This endeavour is made possible by funding from the Li Ka Shing Foundation, a charity established by the wealthy Hong Kong businessman and renowned philanthropist whose name it bears. Two cohorts of ten students take part: one from McGill and one from Shantou University, a Chinese institution located in the southern province of Guangdong. For two weeks, the McGill students learn about Chinese law and culture, while their counterparts take courses on Canadian law given by professors Rosalie Jukier and Véronique Bélanger. Last summer, the program took place in Shantou; this year, it will be held at McGill. Professor Bélanger hopes that it will be extended beyond this two year term and continue rotating from Canada to China every summer.

Despite the program's strong academic component (Shantou U professors Mike Palmer and Zhang Qin received rave reviews), it was the opportunity to associate with Chinese law students which really marked the participants. Fears about cultural difference and inaccessibility quickly evaporated.

Professor Bélanger confesses, "I had been warned that Chinese students might be more reserved than their Western counterparts. On the contrary, I found them to be very open-minded and curious. They weren't shy to express strong opinions!" Contact between the two groups of students was facilitated by joint seminars on topics ranging from constitutionalism to human rights. In addition to sharing classroom discussions, the visiting students also ate, socialized, and travelled with their hosts. The astonishing hospitality of the Shantou students was indeed emphasized time and again by the McGill participants. As soon as the latter had landed on Chinese soil, they found their ten colleagues waiting to greet them at the airport! Over the course of two weeks, barriers eroded and true friendships were formed. One illustration of the excellent impression each group made on the other is the fact that one of the Shantou students is now continuing her education by pursuing an LLM at McGill!

Classroom learning was however only one of the pedagogical aspects of the program. In order to offer the Canadian students a better perspective on the relationships between the law and Chinese culture and politics, it provided for several excursions. Some of these had a cultural purpose, such as visits to the picturesque cities of Chaozhou and Meizhou. Others were of an explicitly legal nature: the McGill students, accompanied by their hosts-turned-interpreters, visited courthouses and a mediation centre, as well as the offices of the prestigious law firm King & Wood. They had the opportunity to sit in at a trial and also to speak to judges and civil servants. Tanya de Mello notes that these experiences shattered several stereotypes usually held by Westerners about Chinese society. For example, she was surprised to discover that there are more female than male judges in China. This is because the selection process in that country involves passing a written examination with objective grading criteria, and women tend to perform better than men. In light of the Bastarache Report's criticisms of the murky judicial appointment process in Quebec, the observation



that China can offer a lesson or two about impartiality to our own system is indeed disconcerting!

The importance of mediation in the Chinese legal system was another cultural surprise for the McGill students. Andrew Hodhod compares the situation in North America, where mediation is rarely used except for family law matters, to that in China, where it is the preferred means for resolving any dispute. He notes that judges often recommend mediation to the litigating parties, and that there was even a room reserved for this purpose in a courthouse the students visited: it contained a round table without any assigned positions, in sharp contrast to the formalities of a courtroom. He thinks that this reality can be explained by the importance accorded to interpersonal relationships in the Chinese mentality: whereas Westerners seem keenest to promote their individual rights in conflicts, the Chinese give priority to maintaining their relationship with the other party in a dispute, and thus prefer a mediated solution to the all-or-nothing verdict of a judge. While this practice has been gaining ground in Canada, Andrew wonders whether the cultural differences between our country and China will impede its flourishing here.


After the conclusion of the program, several participants seized the opportunity for independent travel in Asia. Some of the destinations visited by our adventurous students included Shanghai, Guilin, Chengdu, Hong Kong,

and even Cambodia! Marquise Lee Houle continued her academic odyssey at Beida (Peking University), where she took Chinese language courses for six weeks. More professionally oriented, Fangzhou Bian secured an internship at Tian Yuan, a law firm in Beijing. He worked mainly on business cases involving Chinese and sometimes foreign parties, especially in the field of mergers and acquisitions (M&A). While conceding that it was a very demanding work environment, he stresses that the lawyers were competent and polite. Once again, gender equality in China made a strong impression: Fangzhou emphasizes that a large number of the attorneys at the firm were women.

While last year's summer program was a great success, our mission as McGill students should be to make this year's version even better! This will be a difficult task indeed, considering the hospitality our participants received at Shantou. Once again, ten McGill students will be recruited, in addition to a student coordinator who will help plan activities for the visiting students, such as trips to Quebec City and the Supreme Court in Ottawa. Professor Bélanger has confirmed that the program will run from May 16 to May 27; she expects that applications will become available sometime in mid-February. Like last year, it will count as a three credit Specialized Topics course, graded pass/fail. The ball is now in our court, fellow students. Will we rise to the occasion?

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#### Faculty



**ALANA  
KLEIN**

## VEGAN RAW DELICACIES AT THE LAW CAFÉ?

On Wednesday, I went into the Law Café and found that Chef was selling lunches catered by Crudessence, local vegan raw food restaurant that I actually quite like. The student standing next to me in line looked perplexed as I gushed over Raw Vegan Casserole, so I know it's not for everyone. But for those of us who have been wanting more healthy/fresh/vegetarian/vegan/organic/bourgeois bohemian options, this is a big step forward. It wasn't even more expensive than the usual lunches. I am writing this note to spread the word, because Chef says he'll maintain the practice only as long as there's demand. So please, DEMAND! It's tasty and good for you.



IAN  
CLARKE

## THE 3 THREES OF THE WEEK

Three minutes with...

**Chris Durrant**  
**Actor Extraordinaire**  
**Actus Reus**



**Ian:** Having not been lynched yet from my last article, I'm back again with another interview for your reading displeasure, this time with budding actor, Chris Durrant! So Chris, when will we see you side-by-side Nicholas Cage in an action-thriller?

**Chris:** Beside Cage? When I am so beaten by the world that I no longer differentiate between light and dark, beauty and horror, acting and scenery-chewing ham.

**Ian:** Obviously not a fan of Face/Off, but I digress. Chris, for all those unable to have seen the play, could you describe your role in *Actus Reus*?

**Chris:** Well I played two different characters...

**Ian:** So your character was bipolar?

**Chris:** Sigh, I was two distinct characters in the play! I was most proud of my performance as Michael, interior designer extraordinaire. (Insert large and extravagant hand movements)

**Ian:** Obviously these hand gestures were painstakingly perfected over hours of practice. How much time & effort did you put into the play?

**Chris:** We've had rehearsals most weeknights since October, but to be honest, it was really enjoyable! I was able to work with some stellar people, and I had an excuse not to do Property readings!

**Ian:** And I'm assuming these 'hand gestures' were modelled after Professor Leckey's?

**Chris:** Leckey's elbow-resting technique has nothing on Michael's superfluous hand-talking!!

**Ian:** A bit touchy are we? Should we expect another spectacular performance from you at Skit Nite?

**Chris:** Yes, but unless you want to watch my all-nude one man show, I suggest you help fill the schedule with your own creations. Skit Nite

is coming up on March 15 at Club Soda! If you have any ideas for the night, do not hesitate to send an email to [charles.feldman@mail.mcgill.ca](mailto:charles.feldman@mail.mcgill.ca)!

**Ian:** One last question that I've been dying to know! What does *Actus Reus* mean???

**Chris:** To forget for one brief shining hour that you are in law school. Also something about a guilty act.

### The Three Stars

#### 1. Actus Reus

Another huge shout-out to Aaron Lindh, Courtney Hamara, Luke Brown, Ke-Jia Chong, Preeti Dhaliwal, David Gault, Mari Maiments, Chris Durrant, Katie Webber, Nora Ahmed and Roshini Nair! You all put on a great show and should be incredibly proud of what you accomplished!

#### 2. Conference Final NFL Football

Once again, all is well in the NFL. Someone has shut-up and put Rex Ryan in his place, Jay Cutler has proven once more to be the most overrated QB of our time, Aaron Rodgers continues to show why he is MVP, and Roethlisberger proves once more that he can win outside of the courtroom as well.

#### 3. Robbie Burns Day

In celebration of the Bard's birthday, Scots around the world recited the *Address To A Haggis*, plunged their knife into the sheep stomach and indulged in whiskey! 252 years after his birth, he is routinely considered to be Scotland's greatest hero.

### The Three Losers

#### 1. -30°C/-22°F/Freaking Cold!!!

I thought I said goodbye to ridiculously cold weather when I left Edmonton! With water pipes freezing and wind chill in high gear, I had to bring my long-johns out of retirement. Personally, I can't wait till this 'Global Warming' finally shows up, and turn Montreal into a tropical paradise!

#### 2. Peel Street aka 'The Hill'

This is easily the worst part of my day. With the slippery ice and sub-human temperatures, it's inevitable that bones will be broken and frostbite will claim fingers. Imagine instead of giving QPIRG \$7.50 each semester, we put that money into a heated pulley system that transported people up Peel. Greatest idea since sliced bread!

#### 3. The Factum

My 2L friends used to be so cool. I used to talk to them without the worry of being snapped at. That all changed January 21<sup>st</sup>. Now all I see are stressed out, cynical, jaded and disenchanted shades of their former selves. I can't wait till next month when I complain about how the uncanned memo is ruining my life. I expect/demand pity from all upper-years.



